

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WILMER B. GAY,	:	CIVIL ACTION
Plaintiff	:	
	:	
v.	:	
	:	
ROBERT D. SHANNON, et al.,	:	NO. 02-CV-4693
Defendants	:	

**ORDER**

AND NOW, this            day of            , 2005, upon  
consideration of Plaintiff's Second Motion to Compel Response to July  
13, 2005 Order, and Major Mooney's Response thereto, it is hereby  
ORDERED that Plaintiff's motion is DENIED.

BY THE COURT:

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NORMA L. SHAPIRO,            S.J.

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WILMER B. GAY,	:	CIVIL ACTION
Plaintiff	:	
	:	
v.	:	
	:	
ROBERT D. SHANNON, et al.,	:	NO. 02-CV-4693
Defendants	:	

**RESPONSE TO PLAINTIFF'S SECOND MOTION TO COMPEL**  
**RESPONSE TO JULY 13, 2005 ORDER**

Defendant Mooney incorporates by reference his response to Plaintiff's prior motions to compel, denies any factual allegations not previously admitted, and states the following in response to plaintiff's Second Motion to Compel Response to the July 13, 2005 Order:

The basis for plaintiff's latest discovery motion is unclear. He appears to repeat dismissed claims and question the credibility of the documents that he admits that he received in response to this Court's July 13, 2005 Order. The fact that he does not agree with the content of the discovery responses does not mean that the defense did not comply with this Court's July 13, 2005 Order.

Moreover, in reference to ¶ 5 of plaintiff's latest motion, plaintiff's complaint is unclear. Plaintiff acknowledges that he requested the report filed by defendant Mooney on February 12, 2001 and that this Court directed defendant to provide an additional copy of the report. Plaintiff also admits that defendant Mooney provided plaintiff with just that: the report filed by defendant Mooney on February 12, 2001. The fact that

the box "Other" was checked, rather than the box "Misconduct", is irrelevant. Again, plaintiff's complaint is unclear.

Finally, plaintiff attaches an additional interrogatory to his motion, requesting the names of the inmates who worked in the kitchen.

Defendant Mooney will not be able to obtain this information for the same reason he stated that he was unable to obtain the names of the inmates who worked in the property room:

*The lieutenant in charge of the property room on that day was Lt. Joseph Lencovich. Sergeant Arthur Meyers and Corrections Officer Paul Kingston were also on duty. However, the Inmate Employment Office is unable to determine what inmates were employed, throughout the Institution, at the time. Accordingly, it cannot be determined what inmates, if any, were working in the property room on that particular day.*

Accordingly, Plaintiff's Motion to Compel should be DENIED.

THOMAS W. CORBETT, JR.  
ATTORNEY GENERAL

BY: /s/ Patrick J. McMonagle  
Patrick J. McMonagle  
Deputy Attorney General  
Identification No. 83890

Office of Attorney General  
21 S. 12th Street, 3rd Floor  
Philadelphia, PA 19107-3603  
Fax: (215) 560-1031

Susan J. Forney  
Chief Deputy Attorney General  
Chief, Litigation Section

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**CERTIFICATE OF SERVICE**

I, Patrick J. McMonagle, Deputy Attorney General, hereby certify that a true and correct copy of the Commonwealth Defendant's Response to Plaintiff's Second Motion to Compel Response to the July 13, 2005 Order was filed electronically and is available for viewing and downloading from the ECF system as of June 21, 2005. I further certify that a true and correct copy of said document was mailed on June 21, 2005:

Wilmer Gay  
Inmate AF-2709  
State Correctional Institution - Huntingdon  
1100 Pike Street  
Huntingdon, PA 16654-1112

THOMAS W. CORBETT, JR.  
ATTORNEY GENERAL

BY: /s/ Patrick J. McMonagle  
Patrick J. McMonagle  
Deputy Attorney General  
Identification No. 83890

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21 S. 12th Street, 3rd Floor  
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Telephone No. (215) 560-2933  
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